REMARKS

Receipt of the Office Action of June 21, 2007 is gratefully acknowledged.

Claims 15 - 28 have been examined with the following result: claims 15 - 28 are rejected as indefinite under 35 USC 112, second paragraph because in claim 15, the phrase "as the case may be;" claims 15 - 17 and 27 arerejected under 35 USC 102(b) over Ellinger et al; claims 18 - 21 and 23 - 26 are rejected under 35 USC 103(a) as unpatentable over Ellinger in view of Tilley, Sr; and claim 28 is rejected under 35 USC 103(a) over Ellinger in view of Katahara.

Ellinger et al. (US 4,815,323) describe a method of measuring a fuel quantity of aircraft fuel in a tank. In one embodiment, three ultrasonic transmitters are connected with three stillwells. The transmitters emit ultrasonic signals which travel along the stillwells, are reflected on the surface of the fuel and are received again by the transducers. The time of this roundtrip is used to calculate the level of thee fuel in the tank. The stillwells are located at different places within the tank.

Ellinger et al. do not discuss a connection between the transducers and the aircraft tank. Further, reaction forces or reaction torques acting on the process connection are not mentioned. The examiner states that concerning the defined transmission of reaction forces and reaction torques Ellinger et al. teach "a computing density from the velocity of sounds in the medium". We cannot with this position taken by the examiner.. For the measurements by Ellinger et al., ultrasonic signals are applied to the transducers but this has nothing to do with a defined transmission of moments or torques onto the process connection.

To better define claim 15 over Ellinger et al, the subject matter of claim 18 has been added to claim 15 as amended. Since claim 18 has not been rejected under 35 USC 102, the present amendment to claim 15, effectively removes the

rejection under 35 USC 102 from the prosecution of this application.

Regarding the rejection under 35 USC 103, consider that Tilley (US 5,138,886) teaches an electronic manometer. The manometer consists of a U-tube filled with mercury. The two legs of the manometer are radio frequency coaxial feedline structures. For the measurement of the mercury level a radio frequency signal is applied to the two legs. The wavelength of the signal is proportional to the length of the coaxial structure above the level of mercury.

Hence, there is no mechanically oscillatable unit. This is not a single-rod but a U-tube. Further, there are two elements located within the legs of the U-tube without the kind of connection between three elements as given by the amended claim 15.

The suggestion of the Examiner to combine Ellinger et al. with Tilley would therefore appear to be a bit farfetched. There is no link between the two documents. The argument of the Examiner that one of ordinary skill in the art would modify the measuring unit taught by Ellinger et al. similar to the measurement unit taught by Tilley in order to measure pressure is not, in our opinion, correct as the person skilled in the art starting from Ellinger et al. has no need to measure pressure additionally to the level. Also, there are fundamental differences between the two measurement units which would usually prevent a person skilled in the art from combining them. Ellinger et al. refers to ultrasonic signals and the measurement of a level of a medium. Tilley refers to radio frequency signals to measure pressure. And a combination is very unlike to be feasible. The person skilled in the art would not know how to combine the two distinct measurement techniques into one unit. Applying the "common sense" approach of ***KSR International Co. v. Teleflex Inc.*** , 82 USPQ2d 1385, one can only conclude that the proposed combination fails to achieve the invention as claimed in claim 15 as amended, and the claims dependent therefrom.

The use of three oscillatory members is clearly not taught by any of the references of record in the context of a field device for determining and/or monitoring at least one process variable of a medium in a container.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 15 - 17 and 19 - 28 found allowable.

Respectfully submitted,

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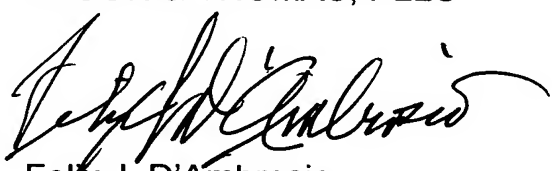

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